

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, April 4, 2011
Kitty Hawk Town Hall, 6:00 PM

AGENDA

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Dare County Arts Council
5. Outer Banks Hotline
6. Public Comment
7. Consent Agenda:
 - a. Approval of Minutes. March 7, 2011 Regular Meeting
 - b. Revenues and Expenses Report for February 2011
 - c. Village Paths Capital Project Budget Amendment #1 (FY10-11)
 - d. FY 11-12 Budget for the Government and Education Channels
 - e. Membership into the Government Access Channels Committee
 - f. Government Access Channels Committee Interlocal Shared Use Agreement Update
 - g. Proclamation *Child Abuse Prevention Month* April 2011
 - h. Resolution *Sexual Assault Awareness and Child Abuse Prevention*
8. Items Removed From the Consent Agenda
9. Unfinished Business:
 - a. Zoning Amendment: Proposal to rezone four (4) parcels at 4907, 4911, 4915, and 4919 Putter Lane (located in the 4900 block of N. Croatan Highway) from Beach Residential (BR-1) to Beach Commercial (BC-1).
 - b. Text Amendment: Proposal to replace the existing Chapter 32, *Soil Erosion & Sediment Control*, with updated standards and wording from the N.C. Division of Land Resources to make our standards compliant with current State standards. A public hearing on this text amendment was previously scheduled for the April 4, 2011 meeting. However, a legal ad was not published within the necessary timeframe. Therefore, a public hearing is now requested to be scheduled for the May 2, 2011 Town Council meeting.
10. New Business:
 - a. Resolution Opposing "Game Fish Status" – This resolution requests the North Carolina General Assembly oppose "Game Fish Status" and honor the Fisheries Reform Act by continuing to make all fish species available for the benefit and enjoyment of all North Carolina citizens.
 - b. Resolution Opposing any Toll for Ferry Service Between Hatteras and Ocracoke – This resolution opposes the establishment of any toll and on the heretofore free ferry service that provides vital access between Hatteras and Ocracoke and urges the NCDOT, the State Legislature, and the Governor to continue maintaining this service without a burdensome and economically damaging toll as a matter of public safety and necessity.

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11. Reports or General Comments From Town Manager
 - a. Update on the Sandy Run Park Project
 - b. NCAAFPM Certified Floodplain Manager Program
 - c. Update on Storm Drainage Study
 - d. Police Department Annual Bank Visits (*added during meeting*)
12. Reports or General Comments from Town Attorney
13. Reports or General Comments from Town Council
 - Outer Banks Relief Foundation Marathons Update – **Councilman Bateman**
 - Occupancy Tax/Beach Nourishment – **MPT Perry**
 - Fire Department Budget – **MPT Perry**
14. Public Comments
15. Recess to Monday, April 11, 2011, 9:00 AM, Kitty Hawk Town Hall, FY 2011-12 Budget, Capital Improvement Plan, Schedule of Fees, Request for Reclassification of Position.

COUNCIL MEMBERS PRESENT:

Mayor Clifton Perry, Mayor Pro Tem Gary Perry, Councilman Ervin Bateman, Councilwoman Emilie Klutz, and Councilman Richard Reid

STAFF MEMBERS PRESENT:

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Planning Director Joe Heard, Finance Officer Mike Eubank, Fire Chief Lowell Spivey, Public Works Director Willie Midgett (*Police Chief Ward absent*)

1. CALL TO ORDER

Mayor Perry called the meeting to order at approximately 6:00 p.m.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

After a brief welcome a moment of silence was held followed with the recitation of the Pledge of Allegiance.

3. APPROVAL OF AGENDA

MPT Perry moved to approve the agenda as promulgated. Councilman Bateman seconded and the motion carried unanimously with a vote of 5-0.

4. DARE COUNTY ARTS COUNCIL

Laura Martier, Executive Director of Dare County Arts Council: *I am here to update Council and the Kitty Hawk residents and community about what we are up to these days. I want to encourage you to review the packet that Town Clerk Morris is going to give you after the meeting and also want to encourage you to become a member of the Dare County Arts Council.*

We are in some exciting times right now when there is a lot of doom and gloom with the economy. Dare County Arts Council has recently raised close to \$400,000 to begin renovating the Dare County Courthouse in downtown Manteo which enables us to have a home with which to do our work.

One of the things we are doing right now includes a community music school open to all Dare County students that cannot afford music lessons. The children get lessons from professional musicians for a dollar a lesson. It is an amazing program and we have about 60 kids this year, our first year. We are looking to expand next year and searching for more space. Currently it is at the Alternative High School and in Kitty Hawk at the Carolinian Studios. That is one of the exciting things going on.

The Arts Council is really good at making partnerships with organizations and even municipalities. We have a partnered with the Town of Nags Head and painted all their garbage cans that are at their beach accesses. So if Kitty Hawk wants to have beautiful, artistic garbage cans, we are really open to that.

The Hospice Legacy Project is another amazing project. Trained artists, musicians, and writers go into the homes of dying patients and provide art therapy. In some cases the patients have created their own art, pieces of pottery, paintings, and drawings or stories. Some of the results of the projects are on the website.

The Arts Council manages 370 volunteers and this year it was 13,320 hours they worked which is pretty amazing. We have put into the artists' pocket this year \$30,820 in commissions and \$46,900 of art work has sold in our gallery this year so far. That is pretty good in this economy when people are saying there is no money. We are selling a lot of art which is really refreshing and that money comes back into the community.

I am sure you know some of the artists that you have here in Kitty Hawk such as Vic and Ellen Berg. They are wonderful artists that show and sell in our gallery. Carol Trotman is an awesome water colorist who also lives here. There is a wealth of talent in Kitty Hawk as well as all over Dare County. We are really blessed to have such creative, innovative people living here.

We give scholarships to each and every school in Dare County. In every high school, Cape Hatteras, Manteo, and Kill Devil Hills a graduating senior going into an arts related field,

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including culinary arts, receives a scholarship. We do not want to leave out the culinary arts. Every year we give away scholarship money. And we give scholarships to kids that cannot afford summer camp. Dare County Arts Council improves the life of everybody in Dare County and we are just getting started.

I was a staff of one for a couple of years and now we have added three part-time people. So we are growing and you are probably seeing the effects of that growth out there in the community and in the newspapers of things that are going on. I want to encourage you to get involved, get aware, and spread the word about what is going on.

We are going to have a membership event at ARTspace in Southern Shores. I think it is April 19th and is free. It is a good chance to meet everybody from Dare County Arts Council and actually have some fun, see some art, and mingle a little bit. Does anyone have any questions for me?

MPT Perry asked if the Arts Council sponsors the artwork on the trash trucks.

Ms. Martier: *No, that was the Dare Education Foundation. But we have partnered with them on some pretty significant projects in the schools. We also fund cultural arts in every school and it is usually something world renowned such as an African troupe. We have brought the Carolina Opera for all the elementary school age kids.*

Mayor Perry thanked Ms. Martier for coming. It was very enlightening and they are doing more than he realized.

Ms. Martier: *That is good, I am glad you said that. And hopefully by me coming here and sharing with you it will spark everyone's awareness. It is just the tip of the iceberg.*

5. OUTER BANKS HOTLINE

Temple Heggie, Programs Coordinator, Outer Banks Hotline: *Mr. Mayor and members of the Council thank you so much for this opportunity. I have been there for an amazing 17 years and cannot believe it. And Hotline has been providing services in Dare County and the surrounding communities for over 30 years with the crisis line. You all are probably most familiar with Hotline because you are the home for Hotline Pink, the thrift shop on the corner beside Ace Hardware. That thrift shop is one of several that provides Hotline with funding that is carrying us through the tide of some pretty tough times grant wise.*

I am here to talk to you tonight about our campaign. Hotline has two main program areas dealing with services for survivors of sexual violence and domestic violence. And we have a safe shelter for women and children who are survivors of domestic and sexual assault. Over the past year and a half we have really brought our focus more into building resilience with children, trying to understand how to minimize the impact of violence for children. We would like to say

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we have a campaign to end violence in Dare County. We would really like to say that. And people would agree that that is a good idea but I am afraid that is too lofty of a plan. What we have brought into our area though is to include the children.

Lynn Bryant, Executive Director, has been at Hotline for more than 20 years and she and I are seeing children who lived in our shelter with their mothers cycling back through, either as abusers or as victims themselves. And we know that there needs to be some way to break the cycle, to build resilience.

Two of us went to a workshop in January that was training for batterer intervention. There is a batterer intervention group in Dare County. One of the presenters was a professor at one of our universities. He stood before us with his PowerPoint with a beautiful collage of children and it said across the page "How Domestic Violence Affects Children." He said I have a PowerPoint but I have decided not to use it. I have a story I want to tell you. And this man stood and told his life story, about living in the home with a very abusive father who abused him, his brother, and their mother. He told us as he grew older about asking people for help, about going to people and telling them what was happening at his house. He named the name of each person that he talked to, their response, and the outcome. It was not always a positive outcome for him and his family.

When we returned from that training and sat with our co-workers, we said we know what we need to do. The focus of our campaign. Because we work more with adults than children we need to provide education to folks so that when an adult or a child comes to you and says someone is hurting them, someone is molesting them, someone is assaulting them, or someone is frightening them, people will know exactly how to respond in a way that that person will find supportive and helpful. And so that is our campaign, to build resilience in children.

We are having pins made that should be delivered by Wednesday. We believe that children learn what they live and the children are watching and so our pins are going to say "The children are watching." We want to bring you some and hope that some of your people will wish to wear it. We have a benefactor for some mouse pads and bumper stickers. This is not my first Town Council meeting so I already know how people feel about bumper stickers. We do think that you might like some mouse pads that feature building resilience in children and preventing child abuse and neglect. April is "Child Abuse Prevention" month and also "Sexual Assault Awareness" month. It is the perfect time to launch our campaign and we will be working hard throughout the year. This is just an explanation for why we are here with our resolution asking for your support. Do you have any questions for me?

Mayor Perry, hearing no questions, said there is a great problem here and thanked her for all the hard work they do.

Ms. Heggie: You are very welcome, and yes, we are afraid we are not going to go out of business any time soon.

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6. PUBLIC COMMENT

Jim Olcheski: *I spoke to you at the last meeting as far as the amendment to change the zoning from residential to commercial. I have approximately 60 signatures of Kitty Hawk homeowners that strongly oppose this. There is fear it is going to open a window for changing a lot of residential to commercial and basically just by signing it we would like to have it stated that if in the future somebody tries to do something like this it shows what a strong opposition there is to it.*

Mayor Perry asked if there was anybody else. No one else came forward to speak.

7. CONSENT AGENDA - *Items on the Consent Agenda are considered to be non-controversial, routine in nature or items not requiring a presentation to or discussion by the Town Council in order to consider the item(s). Any item may be removed for discussion by council or by any member of the audience who wants to hear the item presented and discussed.*

a.) Approval of Minutes. March 7, 2011 Regular Meeting. *(An affirmative vote for the Consent Agenda will approve these minutes.)*

b.) Revenues and Expenses Report for February 2011. *(An affirmative vote for the Consent Agenda will acknowledge this report.)*

c.) Village Paths Capital Project Budget Amendment #1 (FY10-11). Closeout, transfer, and commitment of Village Path Capital Project Funds. This amendment to the Village Paths Capital Project Ordinance will appropriate funding for the construction of the Kitty Hawk Road Sidewalk extension project approved in an earlier council session (November 2010). Within the Village Capital Project, the funds required for the sidewalk extension project in the total amount of \$56,788 will be taken from existing line-item balances of \$53,560 that are currently available for transfer along with unspent line-item monies for engineering services in the amount of \$3,228 that will be reclassified. Approval of this budget amendment (and upon completion of the sidewalk extension project) will further authorize the closeout, assignment, and transfer of all remaining unspent line-item balances within this fund (approximately \$136,465) to the Capital Reserves fund. These transferred funds are to be held in reserve – specifically committing the funds for anticipated pathways development and maintenance, as determined by future appropriation actions of the Town Council. *(An affirmative vote for the Consent Agenda will approve this budget amendment.)*

d.) FY 11-12 Budget for the Government and Education Channels. The Government Access Channels Committee requests approval by the council of the proposed FY 11-12 budget in the amount of \$315,897.62. *(An affirmative vote for the Consent Agenda will approve this budget.)*

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- e.) **Membership into the Government Access Channels Committee.** College of the Albemarle and UNC Coastal Studies Institute are requesting full membership into the GAC Committee beginning July 1, 2011. *(An affirmative vote for the Consent Agenda will approve this request.)*
- f.) **Government Access Channels Committee Interlocal Shared Use Agreement Update.** If the membership increases as requested in above paragraph 7(e) the agreement needs to be updated. *(An affirmative vote for the Consent Agenda will approve the updated Interlocal Use Agreement.)*
- g.) **Proclamation Child Abuse Prevention Month April 2011.** This proclamation calls upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in their efforts to support families, thereby preventing child abuse and strengthening the community in which we live. *(An affirmative vote for the Consent Agenda will support this proclamation.)*
- h.) **Resolution Sexual Assault Awareness and Child Abuse Prevention.** This resolution declares that we unite with the nation in proclaiming April Sexual Assault Awareness Month and Child Abuse Prevention Month in the Town of Kitty Hawk.

Councilwoman Klutz moved to approve the consent agenda. MPT Perry seconded and it was approved unanimously, 5-0.

8. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed from the consent agenda.

9. UNFINISHED BUSINESS

- a.) **Zoning Amendment: Proposal to rezone four (4) parcels at 4907, 4911, 4915, and 4919 Putter Lane (located in the 4900 block of N. Croatan Highway) from Beach Residential (BR-1) to Beach Commercial (BC-1).**

Councilman Reid moved to deny the application to rezone the four parcels, 4907, 4911, 4915, and 4919 Putter Lane from the Beach Residential (BR-1) to Beach Commercial (BC-1). The Town Council finds that this rezoning application is inconsistent with the goals policies and future Land Use Map in the Town's adopted CAMA Land Use Plan. Councilwoman Klutz provided a second.

Mayor Perry asked if there was any discussion.

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Klutz: *I would like to make a comment. First of all we have had quite a lot of public opposition with an additional comment tonight. When people purchase property and do their homework and see what the zoning is of the property they are buying and if they do even more homework and go to the Land Use Plan and see that the future plans also show the area to be residential, they have an expectation that their property values will not decline as a result of a rezoning or as a result of some undesirable commercial neighbor moving in. When people in the neighborhood are adversely affected and are vocal in their opposition, it is up to the council to stand behind the decisions they made and put thought and research into.*

Mayor Perry: *I agree and if there was no opposition it would be ... I would not have a problem with it. If there is opposition for those people who live there then I feel like it is their right to express that and I want to listen to what they have to say. Anybody else?*

Bateman: *I agree with you. I guess the only way you can change that would be with the next Land Use Plan update. Get the zoning area there changed to commercial. With the opposition of 60 signatures and all the emails we received, there is no way I can support a change.*

MPT Perry: *I tend to agree with everything you have said and the fact that people live there and did their homework is a very powerful and very persuasive argument to my mind not to change it. Although I will admit that when it first came to me I was kind of surprised it was not already commercial being a commercial entity exists side by side to it and the traffic area it is in. It would make sense to be commercially zoned but it is not and people are opposed to it. I am going to vote not to change the zoning.*

Reid: *For the record I would like to state a few things because I was involved in this case for a number of years as the planner. When we were doing the plan amendment back five years ago, I told the applicant he should come in and present his proposal to the planning board. We spent two years developing the plan. The planning board met once a month just on the plan amendment. That would have been 24 meetings over a period of two years. The applicant chose not to come in and discuss it. I had other applicants that did come in and propose what they wanted to do with their property. That is the appropriate time to discuss what should be on the Land Use Map and what should eventually be on the zoning map.*

It was not but a matter of a month or so after the Land Use Plan was adopted the applicant came in and requested this zoning. Not a Land Use Map amendment but the rezoning along with another piece of property near the Regional Medical Center. At that time the council approved the property at the Regional Medical Center. In both cases they were in opposition to what the plan had just adopted.

I understand the neighbors and the citizens are opposed to it and that is what the public hearing was all about. To develop the Land Use Plan you look at the overall proposals for the town. Look at pieces of property and look at whether this is going to have an impact on the community whether positive or negative, whether it is going to further the strip zoning down the bypass,

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whether we need additional commercial. At one point in time when they rezoned for the Wal-Mart and The Home Depot it was determined by the council at that time we had enough commercial in Kitty Hawk to serve the community. There are vacant pieces of commercial property that still exists in town.

I also do not buy the argument that this is not appropriate for residential because we have a number of properties up and down the bypass that have recently developed as residential. Frankly it was a surprise to me they actually have access to the bypass. I think there is still a strong demand for residential. People come here to go to the beach, they come here to buy cottages, and I do not buy the argument that this cannot necessarily develop as residential. With all that background there is no way I could personally vote to grant a rezoning that is obviously in opposition to the plan. The plan was presented and the applicant was given an opportunity to present his proposal and chose not to. That is why I am opposed to it.

Hearing no other comments, Mayor Perry called for the vote. **It was unanimous, 5-0.**

b.) Text Amendment: Proposal to replace the existing Chapter 32, Soil Erosion & Sediment Control, with updated standards and wording from the N.C. Division of Land Resources to make our standards compliant with current State standards. A public hearing on this text amendment was previously scheduled for the April 4, 2011 meeting. However, a legal ad was not published within the necessary timeframe. Therefore, a public hearing is now requested to be scheduled for the May 2, 2011 Town Council meeting.

MPT Perry made a motion to set a public hearing for the Town Council meeting on May 2, 2011 regarding the proposed text amendment updating standards for soil erosion and sedimentation control. Councilwoman Klutz seconded and it passed unanimously, 5-0.

10. NEW BUSINESS

a.) Resolution Opposing "Game Fish Status" – this resolution requests the North Carolina General Assembly oppose "Game Fish Status" and honor the Fisheries Reform Act by continuing to make all fish species available for the benefit and enjoyment of all North Carolina citizens.

MPT Perry asked Attorney Michael if council needs to read aloud the resolutions.

Attorney Michael answered it does not need to be read aloud. It is part of council's published agenda and as long as the public has access to it, council may just refer to it.

MPT Perry made a motion to approve the resolution opposing game fish status from the Town of Kitty Hawk. Councilwoman Klutz seconded the motion and it passed unanimously 5-0.

b.) Resolution Opposing any Toll for Ferry Service Between Hatteras and Ocracoke - this resolution opposes the establishment of any toll and on the heretofore free ferry service that provides vital access between Hatteras and Ocracoke and urges the NCDOT, the State Legislature, and the Governor to continue maintaining this service without a burdensome and economically damaging toll as a matter of public safety and necessity.

MPT Perry moved to approve the resolution opposing any toll for Ferry Service between Hatteras and Ocracoke. Councilwoman Klutz seconded the motion and then commented she thought it would be a horrible deterrent for day trippers going over to Ocracoke. People are accustomed to taking the ferry and if they have to wait and pay a toll.... Mayor Perry offered it is their only way in and out of there. Reid said he agrees with the comments and back when he was a tourist his family always referred to that as the free boat ride and they always enjoyed a free boat ride. Vote was 5-0.

11. REPORTS OR GENERAL COMMENTS FROM TOWN MANAGER

a.) Update on the Sandy Run Park Project, Phase II - Planning Director Heard and Brian Rubino from Quible Associates recently met with CAMA representatives to discuss the permit for the project. Mr. Rubino reported that they determined a major modification permit is not required and the modification will probably be a minor modification or letter of refinement. There is another permit they have to review with the Corps of Engineers and Quible will be meeting with them on April 13th to discuss it. The geotechnical drilling for the project is scheduled to begin on April 12th. Quible has the CAD files and they have begun to overlay on the previous plans.

b.) NCAFPD Certified Floodplain Manager Program - Building Inspector Dennis Speight has successfully completed the process and examination to become a Certified Floodplain Manager by the North Carolina Association of Flood Plain Managers.

c.) Update on Storm Drainage Study - The Storm Drainage Study public meeting was held on March 16th to receive input from the public on the drainage problems in town. The public meeting was moderated by George Wood of Environmental Professionals who has teamed up with Albemarle & Associates to conduct the study. There were about 30 people who attended the meeting and provided information relative to their particular problem areas. Attendees were asked to fill out a questionnaire so that a data base can be developed and we can develop a scope of work for the next phase of the project. Prioritization of the locations and developing solutions for the areas under study will begin. Albemarle & Associates is also in the process of plotting each location from the questionnaire on a working base map. They are evaluating each drainage area regarding the published topography, the soils, and previous reports so they can better define the limits of the individual basin areas. The questionnaire that we have been giving out and receiving can be accessed on our town website and we will continue to receive the questionnaire

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until May 1st at which time Albemarle and Associates will be able to submit a suggested course of action to the council at that time.

d.) **Police Department Annual Bank Visits** - Chief Ward has reported that the police department has completed their annual bank visits. Every year representatives from the police department visit each bank in Kitty Hawk and conduct training sessions for the bank employees on false alarms and robbery in progress. It is a great program provided by the town and compliments the police department for their continued efforts in this regard.

12. REPORTS OR GENERAL COMMENTS FROM TOWN ATTORNEY

Attorney Michael said he did not have any items for council at this time.

13. REPORTS OR GENERAL COMMENTS FROM TOWN COUNCIL

- **Outer Banks Relief Foundation Marathon Update** – **Councilman Bateman** - *the mayor asked me to give a chronology of events on the Outer Banks Marathon and information about the OBSE, which is Outer Banks Sporting Events, as well as the Dare Education Foundation and the Outer Banks Relief Foundation.*

About six and a half years ago, representatives from the Dare Education Foundation and the Outer Banks Relief Foundation decided to partner to hold the Outer Banks Marathon, the Half Marathon, and the Outer Banks Fun Run. A group of us were raising money for another national organization and that year we raised \$95,000 on a trip to Rome, Italy. It was a good thing, a great cause, and we still work for that organization but we found out that the monies raised did not all stay here. So we made a decision. If we raise money here it needs to stay here and help the people of the Outer Banks.

Knowing that the Outer Banks is a prime location to hold a marathon or any kind of sporting event we decided to start planning one for here. OBSE's mission statement is "to organize and promote sports competition and healthy living resources, provide financial resources for needed relief, and support for education while contributing to economic development for the Outer Banks of North Carolina." OBSE is a non-profit organization and 100% of all the proceeds are tax deductible.

We tried to target the fall and spring for the events because they are the shoulder seasons when there is not a whole lot of business. Knowing several thousand runners would come for the events and on the average when they come they bring two and a half people with them. It would also attract people to come for the first time and hopefully when they came back they would come back on vacation and bring their whole families, rent a cottage, and spend much more money. It would also create in the fall and the spring

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when all the businesses are less busy, jobs for local vendors, T-shirt printers, design and marketing companies, rental companies, hotels, motels, restaurants, property management groups, the folks that have the port-a-potties along the runs, Ace Hardware food vendors, Pepsi-Cola beverage suppliers, cabs, and 7-11's. It created additional business for all those people. From my personal life at Sugar Creek Restaurant, on the weekend of Veteran's Day weekend before we had the first run in 2006, our average sales there were about \$4,500 for that Saturday, that one day. When we had the run it almost doubled, so we definitely saw a great economic impact for that one day. And of course we span it out for the weekend because we had a 5K, an 8K race, Half Marathon and the Marathon. It is a marathon weekend.

In 2006 there were 4,825 runners and in 2010 there were 10,017 runners, a 108% increase. If you equate that to what it does for accommodations, hotels and so forth, it took 2,604 motel/hotel rooms to house those people. It also took 1,482 rental properties to house them. Once again, I am trying to show you exactly what this race and these marathons and races do for the economy. The total economic impact for 2010, based on a formula put forth by the Tourist Bureau, is 6,000,903.50. In 2011 the projected income, total impact, is \$10,060,000, which is a lot of money.

OBSE is the mother and the two foundations, the Outer Banks Relief Foundation and the Dare Education Foundation are at the bottom. One hundred percent of the net proceeds are split 50/50 between the two. The Dare Education Foundation mission is "to promote excellence in education in Dare County schools through active partnerships with the community". The Outer Banks Relief Foundation mission is "to assist citizens in our community who are burdened with financial difficulties due to a debilitating disease or illness, or personal tragedy or crisis to themselves and/or their families."

An example of what the Relief Foundation has given back to the people of Kitty Hawk is roughly \$48,000. That much has gone to families in need in the Town of Kitty Hawk. Nags Head is the leader with \$80,000 and that is just because they have had more forms of need that come before the Relief Foundation.

Featured events that OBSE is doing in 2011 include: the "Flying Pirate Half Marathon" which is this weekend; an Outer Banks Triathlon series September 9 through the 11th; the Outer Banks Marathon, Half Marathon, 5K and 8K run, and the Fun Run November 11-13 which is Veteran's Day weekend.

Another project we have created is called "Help Me Kid" initiatives. What this does is organize and promote healthy kid programs. We have partnered with local groups such as the GO FAR fitness program and the Healthy Carolinas Fun Run program. It introduces kids to goal setting to be able to run a race for the first time and provides an opportunity to achieve a goal by competing in a race, an event which is a really big

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thing. If you see some of those kids that compete and are running a half mile or a 5K run it is really great to see the sense of accomplishment on their face. It is something you have to train for, set a goal, and then do it. That is kind of what life is about anyway and we are very pleased with it.

On a personal level of everything that I have been involved in this has been the most self gratifying for me. It is my passion and it is the passion of the people that work and volunteer for the programs and races. We have 2,000 volunteers on the Outer Banks who volunteer for the races, from the little kid that is at the start of the race waving a little green ribbon to the grandma at the finish line in Manteo passing out water. It is an Outer Banks "people's race" and "people's weekend." We cannot do it without the 2,000 plus volunteers.

The money that is raised here goes back here and it helps all the people of the Outer Banks. Except for maybe the Centennial, which had great success economically, there is not another event that comes close to bringing the money in as these races do.

Hope I have not confused anybody and hope I have been pretty clear in explaining what the OBSE and the Foundations do. This is something that the people of the Outer Banks should be proud of because everybody is involved in it. It is a community event. I just feel very, very proud to be in Kitty Hawk and be a part of it. I will be glad to take any questions.

Mayor Perry thanked Councilman Bateman for the history and said many people did not know it is volunteers that put all the events together. It is a plus for all the businesses that gain from it and the amount of money given to people in need speaks much for the whole program.

- **Occupancy Tax/Beach Nourishment** – MPT Perry: *I have a couple of items. (reading from a prepared statement) The first is comments concerning using the beach nourishment part of the Occupancy Tax for additional things such as endangered structure relocation or demolition assistance grants and any other shoreline erosion response technique permitted or authorized in North Carolina.*

Several weeks ago I inquired about the possibility of using some of the beach nourishment fund to possibly purchase for removal the residence known as "Pelican's Perch." The house at that time was listed for sale. The home is located almost entirely in the wash zone and creates a damaging gap in the dune currently protecting Highway 12. At each heavy easterly storm, ocean overwash floods through the gap causing flooding in between the highways in that area. Removal of the structure would permit closing the gap to the benefit of west side property and the road. At no time was there an

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intention on my part to remove that or any other structure through condemnation but rather to facilitate possible negotiated purchase of property by willing property owners.

As a result of my inquiry the county manager asked for and received from the North Carolina General Attorney an opinion that the fund could be used for things other than beach nourishment with certain limitations. The limitations that affect what my inquiry was attempting to accomplish are: 1) to purchase and remove abandoned or condemned structures that directly impede public beach access. 2) use of funds for the costs of associated non-hardening activities such as the building of dunes. The key wording appears to be "abandonment or condemnation" and "public beach access."

In summary, there is now a mechanism for both property owners and municipal government to remove endangered structures using funds other than Flood insurance or local tax revenue. Since the county board of commissioners controls that funding, a request must be presented to that board for approval. The precise method for initiating the whole process will have to be approached on a case by case basis but some general recommendations follow. These are my thoughts and are subject to change by council and the county board of commissioners. As previously stated, I have no interest in condemnations so a mutual agreement between property owner and municipal government would be required.

- 1) A property owner agrees that removal of an endangered structure is in the best interest of all concerned.*
- 2) An appraisal of property would serve as a basis for negotiation.*
- 3) A request for funds to purchase and remove the structure would be presented to the board of commissioners for approval.*
- 4) A request for funding to rebuild any dune associated with the structure removal would also be presented to the board of commissioners for approval concurrent with the structure purchase request.*
- 5) Any cost sharing between the use of Occupancy Tax money and local government revenue must be determined.*
- 6) Regulatory agency permitting inquiry as pertained to the proposed scope of work would be a necessary step in determining feasibility of a project.*

For sure there will be additional steps required and perhaps the Shoreline Management Committee is the appropriate place for this whole discussion. Another important point deals with the repealed Sand Tax. That money is held different from the Occupancy Tax collected for beach nourishment. Currently the interest earned on that fund is used to pay for yearly sand fencing and plantings. At the next Shoreline Management Committee meeting I intend to ask how the repealed Sand Tax funds will be used in the future. I am unsure of the legislative wording of that tax with regards to the structure removal. (End of prepared statement.)

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I know that folks have read in various forums about the "Pelican's Perch" and use of the Occupancy Tax and we now have a determination that to my mind runs in favor of the people basically. Anyone have a question on that?

Klutz: I have one comment. I do not know if this is something that would be brought up to the Shoreline Committee or might be more in tune with the county commissioners but if ever there is a house that is located on the beach that qualifies for removal and if the house is actually habitable, something useable, maybe the CDC could use it. I would hate to see perfectly good houses demolished. It is a suggestion and would seem to fulfill another need if there were some lots available to move the structures onto.

MPT Perry: Going along with that same thought, another cost savings could be to offer it up for somebody to remove to another lot and save money on both counts. So we have already kind of thought about that but the CDC is another option. Maybe these things can be discussed at the Shoreline Management Committee meeting and we will have a purpose.

- **Fire Department Budget** – *MPT Perry: Now I am going to get into the fire department and I used one of the five key words in the hope of getting people's attention because this is one that can cost people money. Maybe with the television, as Harry Faircloth says thousands of people watch the meetings, perhaps I can get it across this way. I do not know how else to do it.*

(Beginning of prepared statement) The fire department has requested funding for the Fiscal Year 2011-12 budget in the amount of 725K for a fire engine, three full-time firefighters, at a cost of salary and benefits in the first year of \$167,890, plus \$20K for overtime pay and \$12K for volunteer incentive pay. The fire department has indicated an inability to recruit and retain volunteer firefighters. The department is due a state mandated re-inspection in the year 2012. The fire chief has stated that a lack of manpower combined with the age of existing fire engines may cause a reduction in the current town insurance rating of 5. Any increase in the insurance rating number will cause an increase in homeowner and commercial fire insurance rates. Research has indicated the cost increase could be significant. The department is currently a mix of full-time, part-time, and volunteer firefighters.

When I first became aware of some of these issues back in 2008 it seemed that council would, at some point, have to accept reduced service by the fire department in order to maintain tax rate. In 2009 the chief sought permission to retain and pay part-time firefighters beyond a 1000 hour limit set by State law. Hours in excess of 1000 in a year require contribution to the State Retirement Plan. A reference would be the Recessed Minutes 10-27-2009, page 5.

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During the 2010 budget workshop, council became aware of fire department overtime costs budgeted at \$35K. That figure caused me to begin asking serious questions culminating in a wide ranging workshop discussion regarding how Kitty Hawk started on the path of full staffing, how many fire trucks were actually required, and why the State insisted a second fire station on the north end of town is required. Also produced at my request was the manpower number and cost of fully manning our fire station to meet minimum State response requirements for a structure fire. The increased cost was just shy of \$500K, a possible tax increase of roughly 4 cents. Reference Recessed Minutes of 5-5-2010 beginning on page 6 and associated attachments.

The discussion led to a recessed meeting where Mr. A.C. Daniels, Senior Field Inspector for Ratings and Inspections, North Carolina Department of Insurance, provided much needed information regarding manning and equipment issues. The important point of that whole discussion can be summarized in this quote from the minutes: "Mr. Daniels reiterated identifying Kitty Hawk's needs for a second station and a third engine. However, the biggest issue of concern in the grading process, the one which is going to have a direct bearing on grading, is personnel. Personnel are a State-wide problem in that volunteers are not serving as they once did, particularly young men. Kitty Hawk's 2003 records show minimum response by volunteer staff and being short of paid staff. It is a minimum requirement that a fire department must respond with at least one engine and four personnel to all structure calls and fire alarms within its district. If such does not occur, the rating system will grade substantially lower to an unprotected level. It was stressed that response by personnel is an issue that needs to be looked at further by the town." Reference Recessed Minutes 10-18-2010.

My first thought was, so we get a reduced rating. How bad can that be? To determine that, I paid a visit to two different local insurance agencies and asked what the change in the town's current fire rating of 5 to 9 would have on a \$200K residential structure fire insurance cost. The increase would be over \$500 yearly. A change in fire rating from 5 to the worst possible rating of 10 would increase the annual fire insurance to over \$2,000 per year. Commercial fire insurance is in a different, I am told, much more expensive category. In contrast, a 4 cent increase in tax rate only raises the property tax on a \$400K house and property by \$160 yearly.

Please note that I have not addressed the additional 2 cents that would be required to add to existing funds to pay for the requested fire truck. I believe funding for that can be obtained over a longer period of time compared to the current situation with staffing issues.

Citizens of Kitty Hawk, you have been forced into a no win situation by events started long ago. We all depend upon the fire department for all manner of emergency services. Minimum regulatory requirements are driving the cost of government services. As I hope you can see, council must make a decision that WILL affect your pocket book whether

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this basic service is maintained or not. A summary of how we got in this situation was read into the Minutes of the February 2011 Recessed Meeting under fire department discussion. I would ask for any thoughts and advice you are willing to provide council on this subject. Thank you for listening to my concerns.

Bateman: I was at that meeting too and what I got out of it was that we did not have to buy the fire truck. Was I on a different page than everybody else?

MPT Perry: The fire truck is not as important and not as likely to impact the rating because of the trucks we already have. People was the big issue.

Bateman: Right. Chief do you have volunteers that are applying now? I know one that applied. My question is how many more people, volunteers, do you need on the volunteer side to make it so we do not have to do this?

Chief Spivey: Yes sir, we have had some that have applied. We have given out applications. The one that you are mentioning took the application, has gotten a physical at a cost of \$325 but has not turned in his application yet. We interviewed four this year and out of that four, we have none that have returned to benefit the fire department. Let me clarify, we interviewed one in December that started in January. He is a viable member. How many? I cannot answer that. I have fourteen as of today on the roster and we are asking for them to respond to one out of every ten calls. They are not doing that. They are basically not pulling their weight. What we need are volunteers that will participate.

Klutz: I still do not understand. First of all, why do you go from a 5 rating to a 9? Is there anything in between such as 6?

MPT Perry: Yes and here is what you have to understand. You are dealing with a government inspector and he has discretion depending upon what he sees. He can go anywhere from a 5 to a 10. Ten is the absolute worst. You are considered not having a fire department. You do not know where he is going in between those points and it is an incremental thing between those points of what your individual fire insurance will cost you.

What I was trying to do here tonight was use the "tax" word thinking I might get an audience, hoping that I would get some attention. Apparently that is not going to work. They did not show up. Nobody out there in the audience to speak of except a few folks and I think they probably were astonished at what I have had to say. I would invite anybody to go to your insurance agent and confirm what I have said and then make a decision of which is more important to you. The kind of service that you have now or the potential for something less. I personally do not care if we went back to a volunteer fire department. What really caught my eye was the fact that we lose either way. It does not

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matter which way we go and it is a matter of degree and that degree is before us. The stage has been set and that is why I did what I did tonight, hoping to get to the people of Kitty Hawk's attention.

Klutz: When it comes to taxes the only time you get anybody at the public hearing for the budget is when you have already voted to raise taxes. That is just the way it is. How many years have we not raised taxes and we have not really had anybody stand up at public hearing to say anything. But when your tax rate goes up you do fill the room.

One full-time firefighter was added about three years ago to make sure there was a full time firefighter available on each shift. That is my recollection of the person that was added. We also have part-time firefighters. Between the full-time, the part-time, and a few volunteers that seem to be responding, how far off are we for satisfying the level 5 fire rating?

Spivey: Since October we have not had a structure fire type call that we have had less than 4 people respond. So we are meeting that minimum requirement of 4 bodies.

Klutz: So that is what you need to get a 5?

Spivey: No. I do not need to get 5 for that but when you look at the task on the fire ground we need a complement of trained people to respond so that we can do the job that is laid out to do. The minimum to maintain certification is 22 on the roster, which we have, counting the full-time and part-time staff. We have 32 on the roster, 14 of those right now today are volunteer. The reason he told you in October personnel was needed was when he reviewed our records there were structure fire type calls where there were less than 4 people responding. I hate to hesitate to call that a General Statute but it is a requirement in the State that we have 4 physical bodies.

Then the staffing needs are accomplished by people that are on duty or off duty regardless of whether they are volunteer, paid, or who they are. Based off the lag time because we are trying to meet a standard of response time on call with a sufficient size crew to do the job, it takes 3 people to respond to make or count as one for staffing. Anybody that is on duty at the time of the alarm gets counted one for one. If they are not on duty during the alarm, then it takes 3 people to make one person for the apparatus. It has nothing to do with the physical 4 but then it goes into our rating as to how we are calculated as to whether we can do the job or not with the people we have responding. This may be confusing but if you are off duty it takes 3 to make 1. Then we talk about minimum staffing on an apparatus of 4, if you go to a volunteer department you are going to need 12 people minimum to get credit for the 4 on the apparatus but still must have 4 physical bodies to meet that one requirement to maintain certification.

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Klutz: *The number of people that are on the roster right now, full-time, part-time, and volunteers, I think you said the number was 32, and the problem we had with personnel was that of those 32 we were not getting the response that we needed from them to satisfy the requirement to put 4 people on the fire truck to go to a structure fire.*

Spivey: *That is correct, yes ma'am. Several times during the year.*

Klutz: *Then my next question becomes can we satisfy the inspection requirements by holding the people that are on the roster accountable for showing up when there is a fire.*

Spivey: *How would you go about holding them accountable?*

Klutz: *I do not have an answer for volunteers but we are paying some people. Between the part-time and the full-time can we get enough people, maybe in the part-time category, that we could satisfy the requirement?*

Spivey: *That is one of the alternatives that I asked for. Right now we have 8,760 part-time hours a year approved. That is what we are budgeting for. We are using 6 people right now in the part-time status to cover those hours. We also worked them an extra 850.80 hours last year covering when paid staff was on vacation, in training, or called in sick.*

Klutz: *We are going to be looking at those options during the budget workshop?*

Spivey: *Yes ma'am. I have asked for an additional 8,760 hours in the budget as one of the alternatives. Right now it is taking between 5 and 6 people to cover those hours so I am using the same figures stating that it is probably going to take approximately 5 or 6 people to field that additional 8,760 hours. You would be giving us an authorized staffing of 4 a day.*

Klutz: *At the budget workshop we are going to discuss where we are, how we can maintain that rating, and what the options are for us?*

Spivey: *Yes ma'am and we can take the chance and leave things like they are and hope that we do not fall below 4 again.*

Mayor Perry: *Chief, I have a question. You need firefighters for structure fires.*

Spivey: *Yes sir.*

Mayor Perry: *Not fender benders, not medical things...*

Spivey: *Well I need them for all those things but...*

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Mayor Perry: *I know you need them for all those things but what if you had a group of volunteer firefighters that would answer a call for a structure fire only. How many structure fires are there a year? Not that many. Instead of having them come every time the bell rings to go to a fender bender or a medical call, have them trained to be firefighters and not have to worry about the other things. Seems to me that would cover what we need. Basic firefighters.*

Bateman: *That is a good idea.*

Spivey: *If I can get them trained to that point, yes sir.*

Mayor Perry: *It has been a long time since I have been in the firefighting business but it only takes so much to man the hose and squirt water at a fire. Get the engine running and pump water and so on, but all the medical end of things and all the training that has to go into that for volunteers takes a lot more commitment than the firefighting business. If they did not have to respond to the other little calls and they would be committed to those structure fires is what we are looking at.*

Spivey: *If they come that would be great, yes sir.*

Mayor Perry: *All right, well we will take this up at the budget workshop but he wanted to bring it up also tonight for people to see it on TV.*

Reid: *I read Gary's comments and he is trying to say that if we do not provide the personnel and our rating drops what that does to our insurance rates.*

MPT Perry: *Correct.*

Reid: *We are being killed by insurance here and I think citizens ought to be very concerned about that. From what I read, your figures said a rating of 9 on a \$200,000 structure was an increase of \$500 and if it went to 10 it jumps to \$2,000?*

MPT Perry: *Because you are considered non-responsive. You do not have a fire station as far as the insurance calculators go.*

Reid: *But to provide the personnel to meet the requirements to maintain the 5 rating you are estimating a 4 cent increase in taxes?*

MPT Perry: *According to the figures I had asked for. Basically it was half a million which if you look at it, it should be 4 cents so...*

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Reid: *But then the figure on a \$400,000 house is \$160. Somehow it looks like we are comparing apples and oranges. What would it be on a \$200,000 ... I mean could the finance officer or the fire chief work up some figures to show us what this really involves? If we were to increase the tax rate what is it so the citizens would know what the choices are?*

MPT Perry: *But you cannot do that just on the structure because you pay an ad valorem on your structure and property.*

Reid: *Are we talking about a 4 cent increase that the town would impose in order to pay....*

MPT Perry: *In order to fully staff the fire department with full-time firefighters. Not part-time.*

Klutz: *I do not think we are there yet though. That is an option.*

MPT Perry: *I am throwing out figures so that the public understands what the insurance impact would be versus the staffing versus if going back to a volunteer fire department. That would be fine but you are going to pay more insurance. You are also going to lose some response time and things that are life saving and other things that are being done now. You would not have those available in the volunteer fire department. I am just trying to give the public a heads up. Council sees the confusion and I do not want the public to be hit with either an insurance hike or a reduction in service and not understand what is happening.*

What happened in 2003 has changed dramatically since 2011 and here is a classic example. The State is telling us we need another fire station in the north part of town. Why would we need that? I thought it had to do with NFPA 1710 and response time. Has nothing to do with response time. NFPA is a guideline. We have established that. What it has to do with is the hydrant count. The north end of town is built up, hydrants have been added. If you have more than 49 fire hydrants, I think in a mile and a half but do not hold me to that, in a distance from our fire station then you have to have another station. With trucks in it.

Now south of town, in that distance, we have less than 49 hydrants, so we do not have to have a fire station. When I asked Mr. A.C. Daniels the logic behind that, his answer was, "well it is a little confusing and it generally takes us 18 months to 2 years to train a new inspector." I am un-trainable; there is no logic to that. You could not train me to do that but that is the way it is. They are saying we need another fire station. I am not building a fire station. Sorry, it is just not happening.

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These things are being put upon us by inspection criteria. What the people expect in response, what they want to see or do not want to see in their fire department, and what they are willing to accept in their insurance rating, that is what it is and that is what I am trying to get across to the folks. We are going to have to hash it out at the budget meeting. Do we leave the status quo, do we give him more part time, or do we look at the figures and decide it is just as cheap for the citizens in Kitty Hawk to maintain a level of service that they have come to expect with a modest increase in their tax rate. That is what it boils down to.

I went to two different insurance companies and both agents live in Kitty Hawk and when I asked the question what would happen if we went from where we are to another level, red flags went up. They said "oh, we don't want to do that" and I said well here is the difference it would make and they said "oh, tax me" and I did not know what else to say.

Reid: I guess that is what I am approaching because your figures did not jive to me yet. I am trying to see if there is some way the staff could present us some figures that give us those options because I agree with you. I mean the insurance rates on the Outer Banks are going to force people away. My insurance in Charlottesville is nothing compared to here.

Mayor Perry: We are talking about wind and hail here which drives you out of...

Reid: I know, we are talking about increasing fire to \$2,000 then you add all the other insurance. There is no way I can afford to pay that.

Mayor Perry: I do not see any difference in my fire insurance from when it was a volunteer fire department years ago and what it is today.

Klutz: I think a big problem is with all the growth there is. There are so many more structures now and we are dealing with a different set of criteria.

Mayor Perry: It is not structures, it is fire hydrants.

Spivey: The growth and your fire department has grown with it to try and maintain the rating that you have. Now you are faced with it again.

Klutz: I am still at the place where I think there is something in between that can be done.

Mayor Perry: Anyway we will deal with it at the budget meeting.

MPT Perry: Right. All I am trying to do is bring it to the public's attention so that they do not get blind-sided. I hate being blind-sided and we will go from there.

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Reid: *I appreciate that and I am glad you did the figuring. I think it should be out there because people do not come to the workshops.*

Mayor Perry: *The whole thing is bigger than just hiring firemen. Down the road it multiplies and multiplies with retirement and insurance and those things. That is a killer to this thing. It is not tomorrow hiring firefighters it is what happens over a period of time.*

Reid: *Well, anytime you add personnel you pay for additional benefits.*

Mayor Perry: *Anyone else wish to make comments at this time?*

Klutz: *I want to say Gary's tenacity on the Shoreline Management Committee has done the whole of Dare County a favor.*

Bateman: *I agree.*

Mayor Perry: *It has answered a question that was very questionable and nobody knew the answer.*

Klutz: *And he kept on pushing and I think it has been a credit to you and it has been a big advantage to the whole Outer Banks.*

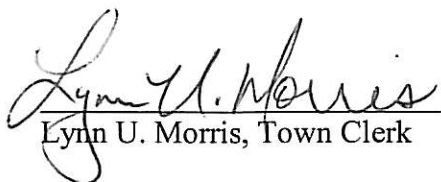
MPT Perry: *Hopefully so.*

14. PUBLIC COMMENT

There were no comments from the public.

15. RECESS

Councilwoman Klutz made a motion, seconded by Councilman Bateman, to recess to April 11, 2011 at 9:00 AM. Vote was 5-0. Time was 7:17 PM.


Lynn U. Morris, Town Clerk


Clifton G. Perry, Mayor

These minutes were approved at the May 2, 2011 Council meeting.